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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,246	06/27/2001	Jun Miura	SON-2150	1558

23353 7590 05/21/2003

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EXAMINER

LEURIG, SHARLENE L

ART UNIT PAPER NUMBER

2879

DATE MAILED: 05/21/2003

Office Action Summary

Application No.

09/891,246

Applicant(s)

MIURA ET AL.

Examiner

Sharlene Leurig

Art Unit

2879

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 23 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 29-48 is/are pending in the application.
- 4a) Of the above claim(s) 37-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 29-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) 29-48 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 27 June 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of claims 29 -36 in Paper No. 10 is acknowledged. The traversal is on the ground(s) that examination of all pending claims is not of serious burden to the examiner.

This is not found persuasive because the MPEP states that "For purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02" (MPEP § 803). The requirement restricting the elected claims, 29-36, of Group IV from the remainder of the pending claims, 37-48, of Group II met the requirements stated in the MPEP § 803, namely by showing that the inventions have acquired separate status in the art as shown by their different classification as well as their recognized divergent subject matter.

The requirement is still deemed proper and is therefore made FINAL.

Request of rejoinder of claims 37-48 upon allowance of the elected claims has been acknowledged.

Response to Amendment

1. Amendment A, filed on April 23, 2003 has been entered and acknowledged by the Examiner. Claims 1-28 have been canceled.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the reflective layer lying on the inner circumference of the fluorescent layer must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 30 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims include the limitation of the reflective layer being formed on the inner circumference of the fluorescent layer. However, based on the fluorescent layer's curvature as shown in the drawings, the reflective layer is formed on the outer circumference of the fluorescent layer, as the fluorescent layer curves away from the reflective layer rather than toward it. For the purposes of examination, the claims will be interpreted as the reflective layer lying between the fluorescent layer and the screen panel, as is shown in the drawings.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 29-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Kato et al. (JP 11-096948) (of record).

Regarding claim 29, Kato discloses a flat cathode ray tube having a grid layer (Figure 1, element 2) described in paragraph 0013, a reflective layer (3) described in paragraph 0008, and a fluorescent layer (4), described in paragraph 0014, which are laminated and formed on the inner side of a panel (paragraph 0007).

Regarding claim 30, Kato discloses a flat cathode ray tube having a grid layer (Figure 1, element 2) described in paragraph 0013, a reflective layer (3) described in paragraph 0008, and a fluorescent layer (4), described in paragraph 0014, which are laminated and formed on the inner side of a panel (paragraph 0007), wherein the reflective layer is formed at the inner side of the circumference of the fluorescent layer where the inner circumference is determined to be the side facing the screen panel, as in the applicant's disclosure.

Regarding claims 29 and 30, the Examiner notes that the claim limitation of the layers being obtained by means of transferring them from a transfer foil is drawn to a process of manufacturing, which is incidental to the claimed apparatus. It is well

Art Unit: 2879

established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of a difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Regarding claims 31 and 32, the reflective layer is formed of a white inorganic layer (paragraph 0008).

Regarding claims 33 and 34, the reflective layer is formed of a titanium oxide layer (paragraph 0009).

Regarding claim 35, Kato discloses a flat cathode ray tube having an electrically conductive reflective layer (paragraph 0012) and a fluorescent layer (paragraph 0014) laminated and formed at an inner side of a panel.

Regarding claim 35, the Examiner notes that the claim limitation of the layers being obtained by means of transferring them from a transfer foil is drawn to a process of manufacturing, which is incidental to the claimed apparatus. It is well established that a claimed apparatus cannot be distinguished over the prior art by a process limitation. Consequently, absent a showing of a difference between the claimed product and the prior art, the subject product-by-process claim limitation is not afforded patentable weight (see MPEP 2113).

Regarding claim 36, the reflective layer (Figure 1, element 3) is formed at the inner side of the circumference of the fluorescent layer (4), where the inner circumference is determined to be the side facing the screen panel, as in the applicant's disclosure.


Art Unit: 2879

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharlene Leurig whose telephone number is (703)305-4745. The examiner can normally be reached on Monday through Friday, 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (703)305-4794. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-7382 for regular communications and (703)308-7382 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

Sharlene Leurig
May 16, 2003



VIP PATEL
PRIMARY EXAMINER